## REMARKS

In response to the Office Action dated January 27, 2006, Applicant respectfully requests favorable reconsideration of the above-captioned application in view of the above-indicated amendments in conjunction with the following remarks. Claims 1-4, 6-30, and 32-55 are currently pending in the application.

*Regarding the 35 U.S.C. § 103 Rejections*

Claims 1-4, 10-12, 14-21, 26-30, 32-37, 41-47, and 49-55 are rejected under 35 U.S.C. § 103(a) as being anticipated by U.S. Patent No. 6,189,146 to Misra (referred to below as "Misra") in view of U.S. Published Application No. 2003/0160823 to Stannard (referred to as below as "Stannard"). Claims 5-9, 13, 22-25, 31, 38-40, and 48 are rejected over Misra as applied to claims 1, 12, 30, 35, 41, 43, and 49 "in view of obviousness" (note paragraph No. 9 of the Office Action). The Applicant respectfully traverses these rejections for the following reasons.

Prior to addressing the rejection, it is believed that the Patent Office may once again benefit from a brief review of exemplary aspects of the subject matter disclosed in the specification. The detailed description in the specification does not limit the claims. Nevertheless, an understanding of certain salient features of the subject matter described in the specification will help the Patent Office better appreciate the distinction between the claims (to be discussed below) and the Misra and Stannard references.

One aspect of the subject matter described in the specification pertains to issuance of a pool of available licenses to clients in an efficient manner. More specifically, one problem encountered in the art is that licenses installed on client computers become "lost." This happens, for example, when the client computers are reconfigured. The effect of losing licenses is that the clients cannot make efficient use of licenses. For

example, through the loss of licenses, the clients may exhaust an available supply of licenses, requiring that the clients purchase more licenses, even though the lost licenses remain valid.

The specification describes a solution to this problem "through leasing licenses to clients and continually expiring and re-leasing them in a way that nets out the overall distribution of purchased licenses" (page 10, lines 18 and 19). Namely, in one implementation, the invention expires licenses when the clients do not take actions which cause the licenses to be updated and reissued within a specified period of time, thus adopting a "use it or lose it" approach to license management. The expired licenses go back into an available pool of licenses for other clients to use, thus reducing the inefficiencies discussed above, e.g., where "lost" licenses remain valid but cannot be used.

Misra, in part, also identifies a strategy for addressing the problem of lost licenses. Consider the following exemplary passages of Misra that have a bearing on Misra's techniquc for addressing the problem of lost licenses:

> When a license is requested, the license server initially checks if the requesting client has already been issued a license. When this situation is detected, the license server issues the *existing* license to the client. This is actually reissuing of the *same license* that was previously issued. This allows the client to gracefully recover licenses when they are lost. (column 3, lines 1-7, emphasis added)
>
> . . . . .
>
> When a client 30 connects to the intermediate server 32, it must present a valid license. If the client does not have an appropriate license, the intermediate server 32 assists the client in obtaining a license from the license server 28. This provides an automated

mechanism for distributing licenses to clients. The license server 28 initially checks if the requesting client already has been issued a license. When this situation is detected, the license server 28 issues the *existing license* to the client. This allows the client to gracefully recover licenses when they are lost. (column 4, lines 49-58, emphasis added)

. . . . .

The license cache 136 is kept in persistent (non-volatile) storage. Clients that do not have persistent storage can be issued licenses as long as they can generate a unique client ID and can respond to the client platform challenge protocol. The licensing system handles this case in the same way it recovers lost licenses. On connect, the intermediate server contacts the license server for a new license. The license server realizes, through the system ID, that the license has already been issued. In this case, the *old license* is simply returned to the client. Clients that cannot generate a system ID or respond to the platform challenge protocol use the legacy licenses stored in the legacy license store 130 at the intermediate server 32. (column 12, lines 15-27, emphasis added)

. . . . .

At step 200 in FIG. 6, the license server determines whether the response is proper, and hence, whether the client is authentic. If the client is authenticated (i.e., the "yes" branch from step 200), the license server proceeds with granting a software license. The license server 28 first queries the secure license store 112 to ii determine if a license for that client has already been issued (step 202). This procedure accommodates the case in which the client has lost its valid software license. If a non-expired license is found, the license server 28 forwards it to the client 30. (column 15, lines 9-18)

In brief, the above-cited passages of Misra describe, in part, a way for a client to obtain its old license in the event that the old license is lost (e.g., Misra states that the

"old license is simply returned to the client" (column 12, lines 23-24)). This does not pertain to the technique described in the instant specification of purposely expiring a license under a "use it or lose it" policy, and, if the license becomes expired, allowing another client to potentially use this license.

Indeed, consider the following additional passage of Misra:

> To prevent the software license from being copied from one client machine to another, the *software license is assigned to the specific client* by including its client ID within the license. The software license also has a corresponding *license ID that is associated with the client ID* in the client assignment table 116 in the secure license store 112 at the license server. The contents of the license are described above in Table 5. (column 15, lines 29-36, emphasis added)

The fact that a license ID is associated with a client ID suggests that the above-cited passage of Misra does not contemplate that a license is freed up if not used by one client prior to the license's expiration date, and then potentially used by another client.

Stannard discloses a licensing management system and method that allows a graphics program to be sampled by a potential customer while still motivating the potential customer to purchase a license. In Stannard's technique, drawing objects not having a valid license can be used within the graphics application in the same capacity as licensed objects except that the unlicensed objects are marked with a tag indicating that the objects are not licensed. Note paragraph No. 7 of Stannard. Stannard also discloses a protocol for updating licenses, as reflected in the following excerpts:

[0073] When a license is updated to reflect a new expiration date or other change, the license record for the license is determined in the license table 800 and overwritten with the *new license record*. (paragraph No. 73, emphasis added)

[0074] In the exemplary embodiment, the user obtains a subscription for a particular library set by purchasing a license having an expiration time. The license allows the user to download and use newly developed libraries related to the originally licensed library 300 without additional costs. The objects 102 from the libraries (300) will appear without the unlicensed tags since the local processor 702 contains the appropriate license. For example, if the user purchasing a license for a flow chart library that is valid for one year, the user may download new flow chart libraries for the year without the need for additional licenses and without having the unlicensed tags appear on the objects 102 from the new licenses. *After the license expires, the user may continues to use the libraries (300) obtained during the license period without the objects 102 appearing with the tags 104. Any objects 102 contained in libraries (300) having creation dates subsequent to the expiration date of the license, however, will appear with the unlicensed tag 104.* (paragraph No. 74, emphasis added)

[0075] Preferably, the user receives, through electronic mail, a message from the server computer indicating that new libraries have been created for the licenses that the user has obtained. In the exemplary embodiment, an electronic mail message is transmitted at four times per year to the user from the server computer 720. *The server computer 720 maintains a data base of all users that have purchased a license and corresponding expiration dates. The server computer 720 sends an electronic mail message to warn the user that a particular license is near its expiration date. The user is reminded that the*

*objects 102 within new libraries (300) will be displayed with an unlicensed tag 104 unless a new license is obtained.* (paragraph No. 75, emphasis added)

[0076] In an alternate embodiment, a user may purchase an updated license at a lower cost than a new license for the same library set. If a license update is purchased, the a license loading file is transmitted as explained above. *The license record will only be stored in the license table 800 if an earlier license corresponding to the library set exists in the license table 800 exists.* (paragraph No. 76, emphasis added)

To summarize, in one implementation, Stanndard describes a protocol for sending a reminder to a user to warn the user that a particular license is near its expiration date. When a license is updated to reflect a new expiration date or other change, the license record for the license is determined in the license table 800 and overwritten with the new license record. Thus, while Stannard apparently provides a mechanism to update licenses, Stannard discloses no concept of purposely expiring a license under a "use it or lose it" policy, and, if the license becomes expired, allowing another client to potentially use this license. In other words, there is no suggestion in Stannard that if a user fails to update a license then the license that is allocated to the user will be re-allocated to an available pool of licenses for the use of other users. This deficiency is not surprising because Stannard is not in the least bit concerned with what happens when a license is lost.

Now turning to the claims, there are nine independent claims rejected under 35 U.S.C. § 103(a), namely, claims 1, 2, 12, 16, 19, 30, 35, 41, and 43. Each of these claims recite one or more elements that the combination of Misra and Stannard do not disclose.

Claim 1 is reproduced below with emphasis:

1. A method of managing a software license, comprising:

issuing a license to a client, the license having an expiration date;

receiving a license request from the client during a license update period;

in response to the license request, providing a new expiration date for the license; and

reissuing the license with the new expiration date to the client,

*wherein the method further comprises making the license available to be issued to any client if the client does not provide a license request.*

Neither Misra nor Stannard disclose at least the element of claim 1 that recites "wherein the method further comprises making the license available to be issued to any client if the client does not provide a license request," in combination with the other elements recited in claim 1. As noted above, for instance, Misra allows a user to retrieve a previously issued license, but Misra does not suggest that a lost license is made available to be issued to any client. Stannard is likewise deficient. Stannard provides a protocol that alerts a user when a license is about to expire, but when that license does expire, Stannard does not disclose a technique that makes such a license available to be issued to any client.

As stated in MPEP § 2143.01, to establish prima facie obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. *In re Royka*, 490 F.2d 981, 180 USPQ 580 (CCPA 1974). "All words in a claim must be considered in judging the patentability of that claim against the prior art." *In re Wilson*, 424 F.2d 1382, 165 USPQ 494, 496 (CCPA 1970). Since at least one of the elements of claim 1 is not met by the applied art, then the art

fails to render claim 1 obvious under 35 U.S.C. § 103(a), even if the individual references are considered in combination.

The remaining independent claims, i.e., claims 2, 12, 16, 19, 30, 35, 41 and 43, recite related subject matter to that set forth in claim 1. Therefore, these independent claims distinguish over the applied art for reasons similar to those presented above.

Finally, the remaining claims are dependent claims. Misra and Stannard do not disclose the subject matter of any of the dependent claims at least by virtue of the fact that these references do not disclose the subject matter of these dependent claims' respective independent claims.

*Conclusion*

The arguments presented above are not exhaustive; Applicant reserves the right to present additional arguments to fortify its position. Further, Applicant reserves the right to challenge the alleged prior art status of one or more documents cited in the Office Action.

All objections and rejections raised in the Office Action having been addressed, it is respectfully submitted that the present application is in condition for allowance and such allowance is respectfully solicited. The Examiner is urged to contact the undersigned if any issues remain unresolved by this Amendment.

Respectfully Submitted,

Dated: April 27, 2006 By: 

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